

SUMTER COUNTY ZONING AND ADJUSTMENT BOARD
December 7, 2009

BOARD OF SUMTER COUNTY COMMISSIONERS
December 29, 2009

REQUESTED ACTION: Adopt Ordinance to amend Sumter County Code of Ordinances and Land Development Code to clarify and regulate the conditions for the allowance of temporary commercial and noncommercial activities, temporary uses, the regulation and timing of private fairs and carnivals, and deleting ability for staff to arbitrarily classify a project as a major project.

CASE SUMMARY:

The proposed ordinance was developed in response to the following issues:

1. Prohibit private fairs and carnivals from operating in conflict with the Sumter County Fair;
2. Provide for consolidated and clear regulations for temporary commercial activities (i.e. transient merchants, street vendors, and peddlers);
3. Provide for consolidated and clear regulations for special events;
4. Provide for regulations to assure temporary use permits for a medical caregiver or care receiver are appropriately utilized; and
5. Eliminate staff's ability to arbitrarily classify a project as "major".

Following is a summary of each section of the proposed ordinance.

Section I

Provides definition of Peddler, Street Vendor, and Transient Merchant

Section II

Removes references to temporary activities from the development classifications. Removes ability to arbitrarily classify projects as "major" if they are "controversial".

Section III

Provides for review and approval by staff of temporary uses that meet the following guidelines:

1. 10 acres or less utilized for temporary use;
2. No more than three (3) consecutive days or twelve (12) days in a single year;
3. No operator of a temporary use may occupy the same parcel or contiguous parcels more than once every six (6) months;
4. Hours of operation limited from 8:00 a.m. to 9:00 p.m.;
5. Demonstrate adequate provisions for sanitary, solid waste, and traffic.

These guidelines apply unless otherwise permitted by the code or approved by the Board of County Commissioners.

Provides for the following prohibitions:

1. Can not utilize a public park, street, or alley unless authorized by the Board of County Commissioners;
2. Stopping a passerby;
3. Yelling or making loud noise to attract persons to the place of business;

Provides for additional limitations on medical hardship temporary use permits:

1. Clarifies maximum period is three (3) years with ability to renew;
2. Reduces maximum period to remove second residence from six (6) months to ninety (90) days;
3. Requires caregiver and care receiver to be full-time residents and limits those living in the second residence to the caregiver/care receiver and their spouse/partner and minor children;
4. Requires a letter from a Medical Doctor (MD) or Doctor of Osteopathy (DO);
5. Requires connection of the second residence to a Sumter County Environmental Health approved wastewater disposal system.

Requires transient merchants to locate on parcels with an adopted future land use of commercial, mixed use or industrial or a vested commercial or industrial zoning. Requires a lease to use property. Transient merchants may operate on church or school property regardless of the property's designated future land use category. Requires approval of a site plan showing boundaries of use, sanitation, parking areas, vehicular and pedestrian access. Florida Department of Transportation must approve access to state roads, and Sumter County Public Works must approve access to county roads. If required, permits from Sumter County Fire Rescue and Sumter County Building must be obtained.

Limits temporary vehicle and watercraft sale lots to no more than fourteen (14) consecutive days plus two (2) set up and two (2) shut down days. Requires thirty (30) days between sales.

Establishes time periods for seasonal sales of Christmas trees (Monday prior to Thanksgiving to December 24), pumpkins (October 1 to October 31), and fireworks (June 20 to July 5 and December 10 to January 2).

Requires street vendors to locate on parcels with an adopted future land use of commercial, mixed use or industrial or a vested commercial or industrial zoning. Street vendors may operate on church or school property regardless of the property's designated future land use category. Street vendors must vacate the property at the end of each day (remove all implements and evidence of operation). Street vendors are exempt from the time limitations.

Peddlers may operate in any future land use category and can only transact business at the property of the customer. Peddlers are exempt from the time limitations.

Clarifies special events include music concerts. Reduces the time period for special events from fourteen (14) days to seven (7) days.

Prohibits the operation of a carnival, circus, music concert open to the public, temporary amusement park or entertainment fair may be held during the Sumter County Fair or twenty-one (21) days prior to the beginning of the Sumter County Fair.

Requires review and approval by staff of special events. Provides for review and approval by the Board of County Commissioners if a need is found to require a bond or extraordinary services or equipment.

Exempts special events held at the Sumter County Fairgrounds.

Provides for the Board of County Commissioners to exempt certain locations in the county via resolution upon a finding of the existence of sufficient facilities and infrastructure.

Section IV

Deletes sections of Chapter 14, Article III, Code of Ordinances regulating peddlers, street vendors, and transient merchants and renames remaining section. The deleted regulations are combined with the regulations in Section III of this ordinance.

Sections V, VI

Provide for conflicts and repealers and codification of ordinance.

Section VII

Establishes an effective date of January 1, 2010.

DIVISION OF PLANNING & DEVELOPMENT STAFF RECOMMENDATION:

Staff recommends approval of the proposed ordinance.

Zoning & Adjustment Board Recommendation:

ORDINANCE NO. _____

**AN ORDINANCE OF SUMTER COUNTY, FLORIDA,
CLARIFYING AND REGULATING THE CONDITIONS FOR THE
ALLOWANCE OF TEMPORARY COMMERCIAL AND
NONCOMMERCIAL ACTIVITIES, TEMPORARY USES, THE
REGULATION AND TIMING OF PRIVATE FAIRS AND
CARNIVALS, DELETING ABILITY FOR STAFF TO
ARBITRARILY CLASSIFY A PROJECT AS A MAJOR PROJECT,
PROVIDING FOR SEVERABILITY, CONFLICTS, REPEALING,
AND CODIFICATION, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Sumter County has seen extensive population growth since the provisions of the Sumter County Code of Ordinances and Land Development Code addressing temporary commercial activities and uses were last revised; and

WHEREAS, the Board of County Commissioners recognizes the need for the orderly management and permitting of temporary commercial and noncommercial activities as well as temporary uses, including but not limited to fairs and carnivals; and

WHEREAS, the Board of County Commissioners wishes to protect the economic viability of permanent commercial activities and, out of an abundance of concern about traffic and public safety, wishes to regulate temporary commercial activities; and

WHEREAS, the Board of County Commissioners recognizes the existing regulations for temporary commercial and noncommercial activities are internally inconsistent and difficult to interpret and administer; and

WHEREAS, the Board of County Commissioners recognizes the need to eliminate arbitrary classifications of projects; and

WHEREAS, the Board of County Commissioners recognizes the symbolic traditional and economic importance of the official annual Sumter County Fair; and

WHEREAS, the Board of County Commissioners wishes to protect the economic viability of the Sumter County Fair and, out of an abundance of concern about traffic and public safety, wishes to prohibit carnivals or similar events during the same week as the official Sumter County Fair.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of the Sumter County, Florida as follows:

SECTION I: DEFINITION OF PEDDLER, STREET VENDO, TRANSIENT MERCHANT

Chapter 13, Article I, Section 13-41 of the Sumter County Code is hereby amended in that the following definitions of “Peddler”, “Street Vendor”, and “Transient Merchant” shall be incorporated alphabetically in the aforementioned section as appropriate:

Peddler means a person who sells or offers for sale merchandise or services or both by traveling from door to door, carrying any such merchandise if selling or offering to sell same, without operation from a fixed business location for the exhibition and sale of such merchandise or services or both. "Peddler" does not include persons who are invited to residences for specific sales of specific items or services.

Street vendor means a person who sells or offers for sale merchandise or services or both from a motor vehicle, a pushcart, wagon, mobile stand, or other moveable device or structure storing the merchandise. "Street vendor" does not include minor children operating lemonade or soft drink stands. "Street vendor" does not include operators of food, beverages, newspaper, or magazine self-service vending machines.

Transient merchant means a person who sells or offers for sale merchandise at any place in the county temporarily and who does not become a permanent merchant at such place and who, for the purpose of carrying on such business, hires, leases or occupies, either in whole or in part, a business location for the exhibition and sale of merchandise. "Transient merchant" includes the situation where a person sells or offers for sale merchandise at any place which does not have a business listing with a telecommunications firm under Federal Communications Commission regulations. "Transient merchant" does not include either an operator of a flea market or a person who conducts business out of a flea market.

SECTION II: DEVELOPMENT CLASSIFICATIONS

Chapter 13, Article II, Section 13-103 of the Sumter County Code is hereby amended as follows (strikeout text are deletions and underline text are additions):

Section 13-103(a)(2)g. is hereby deleted.

~~g. Non-commercial temporary activities; and commercial temporary activities that do not exceed the following limits (provided adequate provisions are made for sanitary, solid waste, traffic and other requirements):~~

- ~~1. Does not occur on more than ten (10) acres of land, and~~
- ~~2. Does not attract more than one hundred (100) persons for single performances or two hundred (200) persons per day for serial performances, and~~
- ~~3. Does not occur for more than three (3) consecutive days, or for more than twelve (12) days in any single year.~~

Section 13-103(b)(2)e. is hereby deleted.

~~e. Commercial temporary activities that do not exceed the following limits:~~

- ~~1. Does not occur on more than twenty (20) acres of land, and~~
- ~~2. Does not attract more than two hundred fifty (250) persons for single performances or five hundred (500) persons per day for serial performances.~~

Section 13-103(c)(2)e. is hereby deleted.

~~e. Commercial temporary activities that do not exceed the following limits:~~

- ~~1. Does not occur on more than twenty (40) acres of land, and~~
- ~~2. Does not attract more than five hundred (500) persons for single performances or one thousand (1,000) persons per day for serial performances.~~

Section 13-103(d)(2)f. is hereby deleted.

~~f. Commercial temporary activities that:~~

- ~~1. Occurs on more than forty (40) acres of land; and or~~
- ~~2. Attracts more than five hundred (500) persons for single performances or one thousand (1,000) persons per day for serial performances.~~

Section 13-103(d)(5)d. is hereby amended as follows:

- d. Any development designated as a major development by the director, unless specified otherwise by the commission, because:
 1. It is part of a larger development that does not qualify as a minor or medium development.
 2. It should have major development review due to its complexity, location or potential for adverse impact to the community.
 3. ~~It is a controversial project.~~

SECTION III: TEMPORARY USES AND TEMPORARY ACTIVITIES:

Chapter 13, Article II, Section 13-363 of the Sumter County Code is hereby amended (~~strikeout text~~ are deletions and underline text are additions) as follows:

Sec. 13-363. Temporary uses and activities.

A. *General.* This use is hereby established to allow temporary uses and activities not normally permitted in the various land use zones, or activities for which permanent use is not desired. A temporary use (or temporary activity) is not a use of right and there is no presumption that it will be granted. No temporary use specified herein shall commence prior to receiving a use permit pursuant to article II, Division 3, of this chapter, and all development permits required for the installation of temporary structures or facilities.

(1) Non-commercial temporary activities and uses and commercial temporary activities and uses that do not exceed the following limits (provided adequate provisions are made for sanitary, solid waste, traffic and other requirements) shall be granted the necessary permits after staff review, at staff's discretion:

a. Absent a specific exemption concerning acreage count by the Board of County Commissioners, said exemption to be granted only upon presentation of a rational basis for the request, the area utilized for such activities shall not exceed (10) acres of land whether a single parcel or contiguous parcels, and such land if used by a party other than the owner, must be specifically leased in writing for the intended purpose; and

b. Such activities shall not occur for more than three (3) consecutive days, or for more than twelve (12) days in any single year on one single parcel or contiguous parcels of land unless otherwise permitted through the provisions of this code or permitted by a specific exemption of the Board of County Commissioners upon presentation of a rational basis for such an exemption; and

c. No operator of non commercial or commercial temporary activities or an affiliate thereof may occupy the same parcel or contiguous parcels of land under the terms of this section more than once every six months under any circumstances, unless otherwise specifically exempted herein or specifically exempted by the Board of County Commissioners based on the presentation of a rational basis for the request; and

d. No operator of non commercial or commercial temporary activities shall operate or permit the conducting of business or the selling of merchandise before 8:00 a.m. or after 9:00 p.m. unless the operator first acquires approval from the Board of County Commissioners.

(2) Prohibited conduct. No operator of non commercial or commercial temporary activities not otherwise expressly addressed by the provisions of this code shall:

a. Use or occupy any portion of any public park, street or alley, unless authorized by the Board of County Commissioners.

b. Stopping a passersby.

c. Yelling or making loud noise to attract persons to the place of business.

B. *Uses allowed and requirements.*

(3) Medical Hardship. Second principal residence on one (1) parcel of record in cases of extreme ~~personal~~ medical hardship, such as where a temporary residence, which may be an RV or mobile home, is needed to house a caregiver or care receiver for a relatively short period of time.

a. The ~~general~~ maximum period for which approval may be given is three (3) years, ~~however, for good cause, the~~ approving authority may ~~grant a longer period~~ approve multiple renewals of the temporary residence for additional terms not to exceed three (3) years each. However each renewal shall require a public hearing before the approving authority.

b. The second principal ~~building~~ residence must be removed from the property within the time set forth in the ~~variance~~ temporary use permit as approved, but in no event later than ninety six (906) days ~~months~~ of the expiration of the temporary use permit, or not later than ninety six (906) days ~~months~~ after recovery or relocation of the person receiving care, whichever occurs first.

c. The caregiver and care receiver must reside on the property on a full time basis during the period prescribed herein. Occupants of the second principal residence shall be restricted to the caregiver or care receiver, the caregiver's or care receiver's spouse or partner, and the minor children of the caregiver or care receiver's spouse or partner.

d. A signed letter from a Florida licensed medical doctor or doctor of osteopathy, which shall include his or her license number, stating the requirement for continuous necessary medical care and oversight of the care receiver must accompany the application for recognition of hardship under this section.

e. The wastewater disposal system servicing the second principal residence must be approved by Sumter County Environmental Health.

(4) *Transient Merchants.* Transient merchants as defined in the Sumter County Code may only operate on parcels with an adopted future land use of commercial, mixed use or industrial under the Sumter County Comprehensive Plan, or a vested commercial or industrial zoning use as recognized pursuant to the land development code. Such use may only take place via written lease with the landowner. A detailed site plan must be provided to the County indicating boundaries of intended use, structures (including, but not limited to, tents), appropriate sanitation, parking areas and appropriate vehicular and pedestrian access, as determined by staff on a case by case basis. Said vehicular access must be approved in writing by the Florida Department of Transportation if a state maintained road is utilized after appropriate review. If a Sumter County maintained road is used for access, approval shall be required in writing from Sumter County Public Works. If the Transient Merchant utilizes a tent or other structure or utilizes electricity in any manner then they must obtain the proper permits from Sumter County Fire Rescue and Sumter County Building Department. Transient merchants, upon submittal of written proof from a church or school of permission to operate on church or school property, may operate on such property regardless of the property's designated future land use category.

a. *Operators of temporary vehicle and watercraft sale lots:* With regard to the sale of the aforementioned vehicles, new or used, all of the restrictions related to Transient Merchant activity stated in this code shall apply. As to frequency of use for vehicle sales, no parcel or contiguous parcels may be used for the sale of vehicles by the operator or any related entity for more than fourteen (14) consecutive days. Operators shall be allowed two "set up" and two "shut down" days prior to and subsequent to the 14 day sale period. The "set up" and "shut down" days shall not count against the allotted 14 day sale period described herein. No less than thirty (30) days may elapse between the termination of such use (including the "shut down" period) and the commencement of the subsequent use (including the "set up" period). No vehicle may be sold on the parcel or parcels at issue during the "set up" or "shut down" periods described herein. This is the sole provision in the Sumter County Code by which temporary vehicle sales lots shall be regulated with regard to the subjects addressed herein.

b. *Seasonal sales of holiday items:* With regard to the sale of items for holidays the following time limitations shall apply:

1. Christmas trees, tree stands, and wreaths: Monday of the week of Thanksgiving to December 24.
2. Pumpkins: October 1 to October 31.
3. Fireworks: June 20 to July 5 and December 10 to January 2 (Section 791.01, Florida Statutes).

(5) *Street vendors:* Street vendors as defined in the Sumter County Code may only operate on parcels with an adopted future land use of commercial, mixed use or industrial under the Sumter County Comprehensive Plan, or parcels designated as vested

commercial or industrial, and may only operate on a daily basis (ceasing operations in the evening) and must remove all implements and evidence of operation daily upon close of business. Street vendors, upon submittal of written proof from a church or school of permission to operate on church or school property, may operate on such property regardless of the property's designated future land use category. Street vendors are exempt from the restrictions of Section 13-363(A)(1)b. and Section 13-363(A)(1)c.

(6) Peddlers: Peddlers as defined in the Sumter County Code may operate within any designated future land use category under the Sumter County Comprehensive Plan, may operate daily, and must transact business on the parcel owned or controlled by the individual or entity engaging as a customer in the transaction or the right-of-way adjoining same. Peddlers are exempt from the restrictions of Section 13-363(A)(1)b. and Section 13-363(A)(1)c.

(74) Special entertainment or religious events. Special events such as temporary public assembly activities for recreational or religious purposes such as carnivals, circuses, music concerts (public or private), rodeos, tent revivals and other activities of a similar nature.

a. The maximum period for which approval may be given for a special entertainment or religious event is fourteen (14) seven (7) consecutive days or fourteen (14) seven (7) special events not to exceed one day per event per applicant (or applicants related by entity or principal) over a one-year period. The limitations of this subsection shall not apply to any event held at the Sumter County Fairgrounds.

b. No carnival, circus, music concert open to the public, temporary amusement park or entertainment fair, without regard to management, ownership, or purpose, may be held in Sumter County during the same time period as the Sumter County Fair or a time period of twenty-one (21) days prior to the beginning of the Sumter County Fair.

bc. Use requirements:

1. A written narrative provided by the applicant describing sanitary arrangement and facilities to be used by the public and employees at the event site shall be approved, in writing, by the county environmental health officer.

2. The applicant shall demonstrate, via written narrative and, if required by staff, a site plan, that adequate provisions for off street parking and loading will be made for the traffic generated by the event and that there will be no undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.

3. Impacts on adjacent uses shall be minimized through limitations on operating hours and reasonable measures to limit off-site noise and lighting. Limitations on operating hours and lighting shall be at the sole discretion of Sumter County staff, based on its assessment of the impact of the event on the surrounding community. The event is subject to all applicable local noise ordinances and the enforcement and penalty provisions included in same.

4. The applicant shall demonstrate adequate litter control via written narrative and, if requested by staff, in a formal site plan.

5. All other standards of review or requirements set forth in this code may be modified, relaxed or not imposed at all in the approval of a special event permit upon a finding by ~~the reviewing authority staff~~ that a rational basis exists for finding that no other standards or requirements are necessary. In addition, ~~the reviewing authority staff~~ may authorize a single event to be monitored with the capability of adding additional requirements if the experience of the first event warrants such additional or modified conditions or requirements.

~~ed.~~ In cases where it is ~~deemed~~ found to be necessary by staff, the Sumter County Ceommission may require, at its sole discretion, the applicant to post a bond to insure compliance with the conditions of the temporary use approval.

~~de.~~ If the applicant requests the county ~~to~~ provide extraordinary services or equipment, and upon the submission of such request by staff, ~~or if the Sumter County e Commission~~ determines that such services or equipment are ~~is~~ necessary to protect the public health, safety or welfare, the applicant shall be required to pay to the provider of such services and equipment a fee sufficient to cover applicable the costs, of the service.

f. The limitations of this subsection shall not apply to any event held at the Sumter County Fairgrounds.

g. The Sumter County Commission may by resolution exempt certain locations in the county from the provisions of this subsection upon a showing of the existence of sufficient facilities and infrastructure for such events and a rational basis for such exemption. Staff shall provide a recommendation to the Sumter County Commission concerning each such exemption request.

SECTION IV. AMENDMENT OF CHAPTER 14 CODE OF ORDINANCES.

Chapter 14, Article III shall be retitled as “Solicitation of Charitable Contributions in Rights of Way”.

Chapter 14, Article III, Sections 14-76, 14-77, and 14-78 of the Sumter County Code are hereby stricken in their entirety. The stricken sections shall be codified as "Reserved" to preserve numerical order.

SECTION V. CONFLICTS AND REPEALER. This Ordinance shall be cumulative of all provisions of the ordinances of the Sumter County, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, which event all ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION VI. CODIFICATION. It is the intention of the Board of County Commissioners of Sumter County, Florida that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the Sumter County, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention. The codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION VII. EFFECTIVE DATE. This Ordinance shall take effect and be in force on January 1, 2010.

DONE AND ORDERED THIS _____ day of _____, 2009

GLORIA HAYWARD
Clerk of the Circuit Court

COUNTY OF _____

By:

Attest: _____

Doug Gilpin, Chairman

_____, Clerk

Approved as to legal form
for Sumter County only:

_____, Attorney